

**RESOLUTION NO. 11-79**

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RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING A FIRST AMENDMENT TO THE JOINT PARTICIPATION AGREEMENT WITH MIAMI-DADE COUNTY, FLORIDA TO CONSTRUCT A MULTI-LANE ROADWAY ON NW 138 STREET, FROM NW 107 AVENUE TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY AT I-75, AND FURTHER AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO ENTER A FIRST AMENDMENT TO THE JOINT PARTICIPATION AGREEMENT IN SUBSTANTIAL FORM AS ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "1" AND TO EXECUTE SUCH DOCUMENTS AND AGREEMENTS IN FURTHERANCE THEREOF.

**WHEREAS**, pursuant to Hialeah, Fla., Resolution 09-45 (May 1, 2009), the City entered into a Joint Participation Agreement with Miami-Dade County to construct a six-lane roadway, from NW 107 Avenue to the Florida Department of Transportation right-of-way at I-75, with the County funding no more than \$14,400,000, which included a contingency fund of \$650,000; and

**WHEREAS**, as provided in Resolution 09-45, the City made a finding that it is in its best interest to facilitate the construction of county road improvements within the City of Hialeah with funds reimbursed by the County through the County road impact fees and gasoline taxes; and

**WHEREAS**, the County intends to enter into a Road Jurisdiction Transfer Agreement transferring jurisdictional control of NW 138 Street to Miami-Dade Expressway Authority ("MDX") for the extension and improvement of State Road 924; and

**WHEREAS**, through this First Amendment to the Joint Participation Agreement, the City shall pay the County the sum of \$6,680,00 for reimbursement of the City's portion of this Agreement (funds supplied by Miami-Dade Expressway Authority (MDX) within 60 business days from the execution of this First Amendment, the Road Jurisdiction Transfer Agreement and recordation of the transfer in the Official Right-of-Way Transfer Map in the public records of Miami-Dade County; and

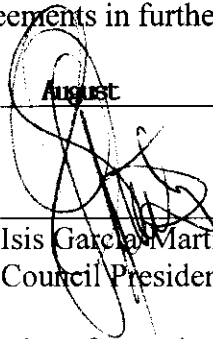
**WHEREAS**, upon payment to the County, the Joint Participation Agreement shall be terminated subject to survival of the City indemnity and hold harmless obligations in favor of the County to the extent applicable.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

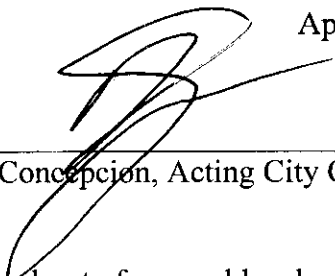
**Section 1:** The City of Hialeah, Florida hereby approves a First Amendment to Joint Participation Agreement for NW 138 Street, from NW 107 Avenue to the Florida Department of Transportation Right-Of-Way at I-75 with Miami-Dade County, Florida to construct a multi-lane roadway on NW 138 Street, from NW 107 Avenue to the Florida Department of Transportation right-of-way at I-75.

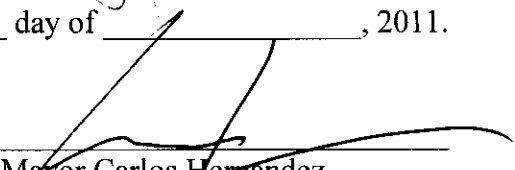
**Section 2:** The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to enter into the aforesaid First Amendment to Joint Participation Agreement, in substantial form as attached hereto and made a part hereof as Exhibit "1", and to execute such documents and agreements in furtherance thereof.

PASSED AND ADOPTED this 9th day of August, 2011.

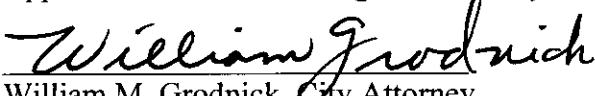
  
\_\_\_\_\_  
Isis Garcia-Martinez  
Council President

Attest: \_\_\_\_\_ Approved on this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

  
\_\_\_\_\_  
David Concepcion, Acting City Clerk

  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

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Resolution was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Yedra voting "Yes".

**FIRST AMENDMENT TO JOINT PARTICIPATION AGREEMENT FOR NW 138  
STREET FROM NW 107 AVENUE TO FLORIDA DEPARTMENT OF  
TRANSPORTATION RIGHT-OF-WAY AT I-75 BETWEEN MIAMI-DADE  
COUNTY AND THE CITY OF HIALEAH**

This First Amendment to the Joint Participation Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between Miami-Dade County, a political subdivision of the State of Florida, herein referred to as the "County", and the City of Hialeah, a political subdivision of the State of Florida, herein referred to as the "City".

**WITNESSETH**

WHEREAS, pursuant to Resolution No. R-838-09, approved by the Board of County Commissioners of Miami-Dade County, Florida, on June 30, 2009, the parties hereto entered into a Joint Participation Agreement (JPA) to facilitate the construction of a road improvement project in Miami-Dade County, including the construction of roadway improvements along NW 138 Street, from NW 107 Avenue to Florida Department of Transportation (FDOT) right-of-way at I-75 in Hialeah, Miami-Dade County, as more particularly described in the JPA (the "Project"); and

WHEREAS, the Miami-Dade Expressway Authority (MDX) is pursuing the extension of SR 924 (Gratigny Expressway) West to the Homestead Extension of the Florida Turnpike (HEFT) and proposes to utilize NW 138 Street to provide this connection; and

WHEREAS, MDX has requested that NW 138 Street, from Okeechobee Road to FDOT right-of-way at I-75 be transferred from the County to MDX

jurisdiction in order to utilize its capital bond funding along this portion of NW 138 Street; and

WHEREAS, the parties propose to amend the JPA to have all funds paid by the County to the City for the Project reimbursed (\$6,860,000 of the \$14,400,000 commitment), and are now desirous of terminating said JPA; and

WHEREAS, the County, MDX, and the City agree that this arrangement would be beneficial to the public because it will facilitate access and mobility in this developing area of the County,

NOW, THEREFORE, in consideration of the mutual desires of the parties hereto, the following modifications are made to the aforementioned JPA:

**13 REIMBURSEMENT OF PROJECT COSTS BY THE CITY:** Within sixty (60) business days of the execution of (a) this Amendment to the JPA, (b) the execution of the Road Jurisdiction Transfer Agreement between Miami-Dade County and the Miami-Dade Expressway Authority for NW 138 Street from Okeechobee Road/SR 25 to Florida Department of Transportation right-of-way at I-75, and (c) the recordation of the Official Right-of-Way Transfer Map in the Public Record of Miami-Dade County, Florida, the City shall pay the County the amount of six million, eight hundred and sixty thousand dollars (\$6,860,000). This constitutes the City's reimbursement to the County for amounts expended by the County in connection with the Project. Following said reimbursement, the parties agree to the immediate termination of the JPA, and neither party shall have any further obligation, liability or responsibility to the other hereunder, each of the parties agreeing to release and discharge the other from any claims and

demands under this JPA. By exception, the City's obligations to indemnify, defend and hold the County harmless contained in Section 7 of the JPA shall survive the termination and shall remain in full force and effect between the parties notwithstanding the termination effected in this Amendment.

IN WITNESS WHEREOF, the parties hereto set their hands and official seals the day and year first above written.

ATTEST:

HARVEY RUVIN  
CLERK OF THE BOARD

MIAMI-DADE COUNTY, FLORIDA,  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
County Mayor or County Mayor' Designee

Approved by County Attorney  
as to form and legal sufficiency \_\_\_\_\_

ATTEST:

CITY OF HIALEAH, a municipal  
corporation of the State of Florida

BY: \_\_\_\_\_  
David Concepcion  
City Clerk

BY: \_\_\_\_\_  
Carlos Hernandez  
Mayor

(Affix City Seal)

Approved by City Attorney  
as to form and legal sufficiency \_\_\_\_\_

**RESOLUTION NO. 09-45**

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING A JOINT PARTICIPATION AGREEMENT WITH MIAMI-DADE COUNTY, FLORIDA TO CONSTRUCT A SIX-LANE ROADWAY ON NW 138 STREET, FROM NW 107 AVENUE TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY AT I-75, WITH A RAISED MEDIAN, SIDEWALK, CURB AND GUTTER, CONTINUOUS STORM DRAINAGE SYSTEM, ROADWAY LIGHTING, SIGNAGE AND PAVEMENT MARKINGS, SIGNALIZATION, LANDSCAPING, CANAL RELOCATION, DE-MUCKING AND FPL DISTRIBUTION LINE RELOCATION AND SUBJECT TO THE RECEIPT OF FUNDS FROM MIAMI-DADE COUNTY TO UNDERWRITE THE COSTS OF THE IMPROVEMENTS IN AN AMOUNT NOT TO EXCEED \$14,400,000, WHICH INCLUDES A CONTINGENCY FUND OF \$650,000; AND FURTHER AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO ENTER INTO THE JOINT PARTICIPATION AGREEMENT IN SUBSTANTIAL FORM AS ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "1" AND TO EXECUTE SUCH DOCUMENTS AND AGREEMENTS IN FURTHERANCE THEREOF; AND REPEALING AND RESCINDING HIALEAH, FLA., RESOLUTION 07-92 (AUG. 19, 2007).

**WHEREAS**, pursuant to Hialeah, Fla., Resolution 07-92 (Aug. 19, 2007), the City authorizes the Mayor to enter into a Joint Participation Agreement with Miami-Dade County to construct a six-lane roadway, from NW 107 Avenue to the Florida Department of Transportation right-of-way at I-75, with the County funding no more than \$12,300,000; and

**WHEREAS**, subsequently, the City did not enter into a Joint Participation Agreement at that time but continued its negotiations with the County, which culminated in an agreement increasing County funding to \$14,400,000, which includes a contingency fund of \$650,000; and

**WHEREAS**, the City finds that it is in its best interest to facilitate the construction of county road improvements within the City of Hialeah with funds reimbursed by the County through the County road impact fees and gasoline taxes.

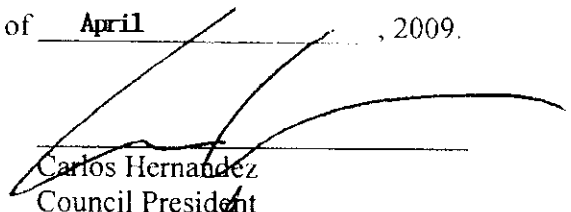
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The City of Hialeah, Florida hereby approves a joint participation agreement with Miami-Dade County, Florida to construct a six-lane roadway on NW 138 Street, from NW 138 Street, from NW 107 Avenue to the Florida Department of Transportation right-of-way at NW 107 Avenue, with a raised median, sidewalk, curb and gutter, continuous storm drainage system, roadway lighting, signage and pavement markings, signalization, landscaping, canal relocation, de-mucking and FPL distribution line relocation and subject to the receipt of funds from Miami-Dade County, Florida to underwrite the costs of the improvements in the amount to exceed \$14,400,000, which includes a contingency fund of \$650,000.

**Section 2:** The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to enter into a Joint Participation Agreement, in substantial form as attached hereto and made a part hereof as Exhibit "1", and to execute such documents and agreements in furtherance thereof.


**Section 3:** The City of Hialeah, Florida hereby repeals and rescinds Hialeah, Fla., Resolution 07-92 (Aug. 19, 2007) in its entirety.

PASSED AND ADOPTED this 28th day of April, 2009.

  
Carlos Hernandez  
Council President

Attest:

Approved on this 1 day of May, 2009.

  
Rafael E. Granado, City Clerk

  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
William M. Grodnick, City Attorney

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Resolution was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".



**ROAD JURISDICTION TRANSFER AGREEMENT**  
**NW 138 STREET FROM OKEECHOBEE ROAD/SR 25 TO FLORIDA DEPARTMENT OF**  
**TRANSPORTATION RIGHT-OF-WAY AT I-75**  
**BETWEEN MIAMI-DADE COUNTY AND THE MIAMI-DADE EXPRESSWAY AUTHORITY**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011 by and between the Miami-Dade Expressway Authority ("MDX" or "Authority"), a body politic and corporate, a public instrumentality and an agency of the State of Florida, created pursuant to Chapter 348, Part I, Florida Statutes, and Miami-Dade County, Florida (the "County"), a political subdivision of the State of Florida, pursuant to the provisions of Section 335.0415, Florida Statutes.

WITNESSETH

WHEREAS, MDX has undertaken a preliminary study of various options to extend the western limits of SR 924, a toll facility under the jurisdiction of MDX; and

WHEREAS, NW 138 Street is a public roadway on the County Road System and under the jurisdictional control of Miami-Dade County; and

WHEREAS, the County has undertaken to fund certain improvements to NW 138 Street through an agreement with the City of Hialeah; and

WHEREAS, MDX considers portions of NW 138 Street to be included in one of the most viable options for extension of SR 924; and

WHEREAS, transfer of NW 138 Street from the County Road System to the jurisdictional control of MDX for the extension and improvement of SR 924 will facilitate travel to and through urban Miami-Dade County and will facilitate access to intermodal facilities, including but not limited to Miami International Airport and the Port of Miami; and

WHEREAS, transfer of NW 138 Street from the County Road System to the jurisdictional control of MDX for the extension and improvement of SR 924 will facilitate emergency evacuation in Miami-Dade County; and

WHEREAS, MDX is willing to assume the cost of improvements to and future maintenance of NW 138 Street in exchange for the jurisdictional transfer of NW 138 Street from the County to MDX.

NOW THEREFORE, in consideration of the mutual covenants and other good and valuable consideration, the receipt of which is hereby acknowledged, County and MDX hereby agree as follows:

**1. Definitions**

- a. The term "Transferred Right of Way" shall mean the right-of-way-delineated as NW 138 Street as reflected in the right-of-way map attached hereto as Exhibit "A" and made a part hereof.
- b. "Costs of Improvements" to NW 138 Street are those as set out in Exhibit "B," attached hereto and made a part hereof.

**2. Recitals**

The foregoing recitals are true and correct and incorporated as if fully set out herein.

**3. MDX Responsibilities**

- a. MDX shall bear the "Cost of Improvements" made to NW 138 Street, as set out in Exhibit "B", either through direct payment of such costs or through reimbursements made either directly to the County or through transfer of funds to be made via the City of Hialeah to the County.
- b. Further, the responsibility for and the cost of all maintenance and operation of NW 138 Street as delineated in Exhibit "A," subsequent to its jurisdictional transfer from the County to MDX shall be borne by MDX.
- c. The guardrail and lighting system that exists for NW 138 Street within that certain portion of the canal right-of-way, described in Exhibit "C", will be transferred to MDX and will remain in place as permitted improvements within the canal right-of-way subject to the terms of a permit or license agreement from the Miami-Dade County Department of Environmental Resources Management.
- d. The culvert connecting the canal on the west side of NW 97 Avenue to the canal on the north side of NW 138 Street will be transferred to MDX and shall be considered a part of the roadway facility. MDX will be responsible for maintaining flow pursuant to the flow rights easement reserved by the County and MDX shall have the right to connect the culvert to the existing County canal facilities.
- e. Jurisdictional, operational and maintenance responsibilities by MDX will commence upon the execution of this Agreement and the recordation of the Road Right-of-Way Map in the Public Records of Miami-Dade County, Florida, in accordance with Section 337.29 of the Florida Statutes.

**4. County Responsibilities**

The County shall execute the appropriate transfer documents and record Exhibit "A" in the public records of Miami-Dade County, Florida, reflecting the jurisdictional transfer of NW 138 Street to MDX. The County shall retain jurisdiction over the existing canal and canal rights-of-way located immediately adjacent to the portion of NW 138 Street that is the subject of this transfer agreement.

**5. Notices.**

Any and all notices required to be given under this agreement shall be sent by first class mail, addressed as follows:

For the County:

Attention: Esther L. Calas, P.E.  
Director, Miami-Dade County Public Works Department  
111 NW First Street, Suite 1640  
Miami, Florida 33128  
(305) 375-2960

For MDX:

Attention: Javier Rodriguez, P.E.  
Executive Director, Miami-Dade Expressway Authority  
3790 N.W. 21st Street  
Miami, Florida 33142  
(305) 637-3277

IN WITNESS WHEREOF, the parties hereto set their hands and official seals the day and year first above written.

ATTEST:

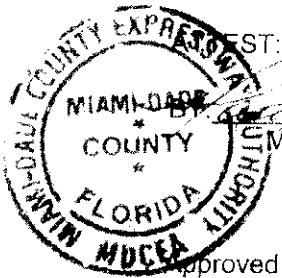
HARVEY RUVIN  
CLERK OF THE BOARD

MIAMI-DADE COUNTY, FLORIDA,  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
County Mayor or County Mayor's Designee

Approved by County Attorney  
as to form and legal sufficiency \_\_\_\_\_



MIAMI-DADE EXPRESSWAY AUTHORITY

BY: \_\_\_\_\_  
Javier Rodriguez, P.E.  
Executive Director

Approved by MDX General Counsel  
as to form and legal sufficiency \_\_\_\_\_

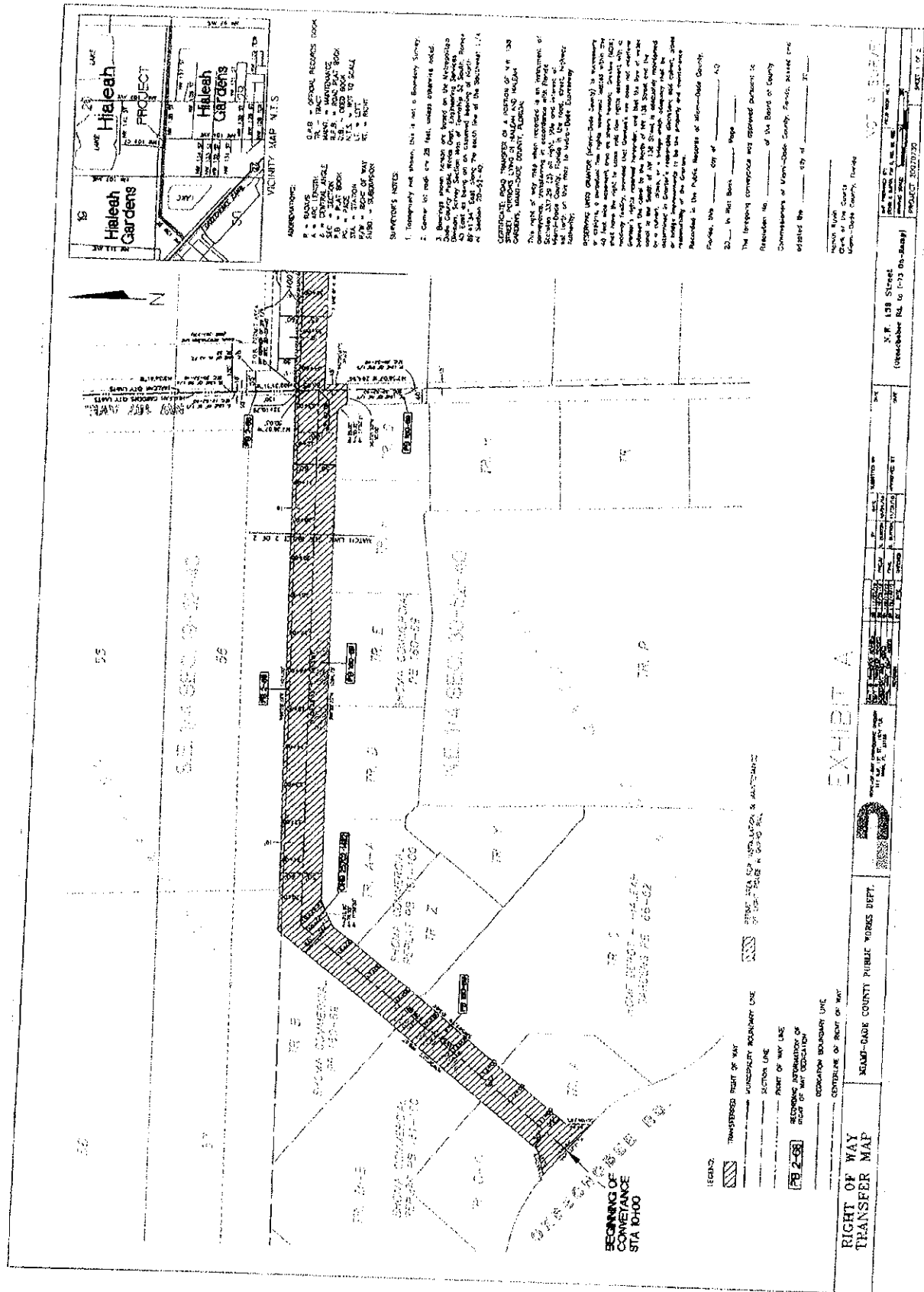




Exhibit B  
Cost of Improvements

Fiscal Year	Funding Amount	MDX Funding Source
2011	\$14,400,000	2010 Series Bonds
	\$14,400,000	<i>Total Potential MDX Funding Amount</i>

Exhibit C

Legal Description: Permit Area for NW 138 St. Canal Right of Way

A portion of Section 20, Township 52 South, Range 40 East, lying in Miami-Dade County, Florida, being a strip of land 5.0 feet in width lying north of and parallel to the following described line, being more particularly described as follows: Commence at the Southwest corner of the Southwest 1/4 of said Section 20; thence North 02° 34' 51" West along the west line of the Southwest 1/4 of said Section 20 for a distance of 10.01 feet and the Point of Beginning of the herein described line; thence North 89° 41' 34" East parallel with and 10.0 feet north of the south line of the Southwest 1/4 of said Section 20 for a distance of 566.21 feet; thence North 85° 05' 16" East for a distance of 311.39 feet; thence North 89° 41' 34" East parallel with and 35.0 feet north of the south line of the Southeast 1/4 for a distance of 1763.22 feet; thence North 75° 11' 29" East for a distance of 43.99 feet; thence North 89° 40' 13" East parallel with and 46.00 feet north of the south line of the Southeast 1/4 of said Section 20 for a distance of 273.76 feet; thence South 77° 55' 20" East for a distance of 51.20 feet; thence North 89° 40' 13" East parallel with and 35.0 feet north of the south line of the Southeast 1/4 of said Section 20 for a distance of 1312.08 feet; thence North 88° 34' 13" East for distance of 572.98 feet; thence North 89° 40' 13" East parallel with and 46.0 feet north of the south line of the Southeast 1/4 of said Section 20 for a distance of 389.26 feet to the intersection with the east line of the said Southeast 1/4 of Section 20 and the point of terminus of the herein described line.



Exhibit C

Legal Description: Flow Rights Easement across NW 138 St. at NW 97 Ave.

A portion of Sections 20 and 29, Township 52 South, Range 40 East, lying in Miami-Dade County, Florida, being a strip of land 40.0 feet in width, more particularly described as follows: Commence at the Southeast corner of the Southeast 1/4 of said Section 20; thence North 02° 37'55" West along the east line of the Southeast 1/4 of said Section 20 for a distance of 46.04 feet; thence South 89°40'13" West along a line 46.0 feet north of and parallel with the south line of said Southeast 1/4 of Section 20 for a distance of 70.06 feet to the Point of Beginning of the herein described easement, lying 20.0 feet on each side of the following described centerline; thence South 02°37'55" East parallel with and 70.0 feet west of the east line of the Southeast 1/4 of said Section 20 for a distance of 111.09 feet to the point of terminus of the herein described line.